

AGENCY MEMBERS PRESENT

Gene Caldwell, M.D., Chairman
Carl Koella, III, Vice Chair
Bryan Atchley
Peggy Troy
Judy Black, RN, designee for the TennCare Director
Kristin Coile, designee for the Commissioner of Commerce and Insurance
Faye Weaver, designee for the Comptroller of the Treasury
Greg Lammert
Charles Handorf, M.D.

AGENCY MEMBERS ABSENT

None

AGENCY STAFF PRESENT

Melanie Hill, Executive Director
Mark Farber, Assistant Executive Director
Reid Brogden, General Counsel
Melissa Bobbitt, Administrative Services Assistant
Sue Kerley, Administrative Assistant

GUESTS PRESENT

Anderson, Jim, United Regional Hospital
Archer, David, St. Francis Hospital
Arnett, Michael, EMHC
Baker, Graham, Esq., Weeks, Anderson & Baker
Bisbee, Taffey, Beverly Healthcare
Brown, Laura Beth, Vanderbilt University Medical Center
Byrd, Harold, Bank of Bartlett
Capps, MD, Raymond, Tullahoma Neuro Clinic
Cash, Patrick, Hospice of Cumberland County
Corritore, Danell, Department of Health
Culp, Joe, TDOH
Curtis, Sandra, Memorial Hospital Chattanooga
Denphy, Sarah, Biolumaging
Drake, Robert, Community Health Alliance
Elrod, Dan, Esq., Miller & Martin
George, Robert, United Regional Medical Center
Gilmore, Cynthia H., CMC
Green, Robin, Beverly Healthcare Brandywood
Griffith, Suzanne, Bartlett Area Chamber of Commerce
Hall, Penny, NHC Homecare Springfield
Hardin, Barbara, STHS
Hayes, Eileen, Healthsouth
Haynes, Deborah, NHC Homecare
Helton, MD, Keith, Galen Medical Group, PC
Herman, MD, Cheryl, Vanderbilt Breast Imaging Center
Hill, Ronald W., Vanderbilt University Medical Center
Hudson, Angela, NHC Homecare Springfield
Huff, John, Dr.
Hughes, Jr., John L, Beverly Healthcare

Kenley, William, Methodist Healthcare
Klimits, M.J., GE
Lee, Kevin D., Senior Health Incorporated
Lintz, Gordon, BMH
Looney, Kim, Esq., Waller, Lansden, Dortch & Davis
Lucchesi, Jane, Methodist Healthcare
Maples, Arthur, BMHCC
Martin, Jr., Dr., H. Frank, Dr., Midsouth Heart Institute
Masters, Mary Betty, Southern Joint Replacement Institute
Mathews, MD, Douglas, Neurosurgical Associates
May, Lisa, Biolumaging
McIntire, Timothy, BDBCB
McKay, Martin, Erlanger
Moore, Greg, Healthsouth
Moscardelli, Michael, BDBCB
Ockerman, Esq., Jeff, Stites & Harrison, PLLC
Oglesby MD, Wills, Tennessee Orthopedic Alliance
Parsons, Don, EMHC
Penny, Linda, Comptroller's Office
Puri, Chris, THCA
Richards, Jacqueline, Radiology Alliance
Ritterman, Cheryl, Vanderbilt
Rudd, Pam, NHC
Sajad MD, Rehan, Internal Medicine & Pain Management
Sanders, Bill, Imaging Alliance
Simeons, David, Cardiology Associates of Memphis
Simpkins, Kent, Community Health
Smith, Robert, GE
Sumiel, Georgia, Regional Hospital of Jackson
Taylor, Esq., Jerry, Farris, Mathews Branan Bobango Hellen & Dunlap
Throneberry, Garen, Harton Regional Medical Center
Trauger, Byron, Esq., Trauger, Ney & Tuke
Vaughn, Jerry, Vaughn Home Health
Werkhoven, Kae, St. Peter Villa
West, Steve, Methodist Healthcare
West, William, Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz
Wilson, David, St. Francis Hospital-Bartlett
Wood, Betsy, THA
Zachary, Kevin, St. Francis Hospital-Bartlett

Chairman Caldwell called the meeting to order at 8:35 a.m. in the Main Auditorium of the Bell South Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, announced the resignation of Agency Member, Cheryl Cunningham, Consumer Representative, appointed by the Speaker of the Senate. Ms. Cunningham served with distinction both on the Health Facilities Commission and on this Agency.

Ms. Hill advised the members that copies of the comment letters and transcript from the Rulemaking Hearing held on November 19, 2004, would be available from General Counsel, Reid Brogden, later in the meeting and that discussion concerning the Rulemaking Hearing would be taken up during the January 2005 meeting.

Ms. Hill made general announcements noting that beginning with the January 2005 meeting, the dates for the meetings will resume a normal schedule (4th Wednesday of each month) until the November and

December 2005 meetings. The November meeting will be scheduled for November 16, 2005. Ms. Hill asked the members to consider which Wednesday in December 2005 would be best suited for that meeting. The decision will be made at the January 2005 meeting. All of the meetings will be held at the Bell South Tower, Nashville, Tennessee, with the exception of February, 2005, which is scheduled to be held at the Holiday Inn Select, Vanderbilt.

Ms Hill offered congratulations to Deputy General Counsel, Jim Christoffersen and his wife, Michon, on the birth of their daughter, Laura Grace.

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Vaughn Home Health Services, Inc., Nashville (Davidson County), TN -- CN0407-061

The establishment of a home health agency limited to caring for orthopedic and neurosurgery patients only. The proposed service area for this new limited service home health agency will include: Cheatham, Davidson, Dickson, Maury, Robertson, Rutherford, Sumner, Williamson and Wilson Counties. It is proposed that TennCare, Medicaid, and Medicare patients, in addition to private-pay patients, will be served by the home health agency, and the new home health agency will be licensed by the Tennessee Department of Health. \$ 92,000.00

E. Graham Baker, Esq., representing the Applicant, addressed the Agency on behalf of the project. Jerry Vaughn, Vaughn Home Health; Dr. Douglas Mathews, Neurosurgical Associates; Dr. Wills Oglesby, Tennessee Orthopedic Alliance; Mary Betty Masters, RN, Southern Joint Replacement Institute; and Cynthia Gilmore, RN, CMC, spoke on behalf of the project.

Pam Rudd, on behalf of NHC, Ronald W. Hill on behalf of Vanderbilt University Medical Center and Laura Beth Brown, President, Vanderbilt Home Care Services spoke in opposition to the project.

Mr. Baker rebutted.

Ms. Rudd provided summation for the Opposition.

Mr. Baker provided summation for the Applicant.

Dr. Handorf moved for denial of the project based on: The need for high quality care for neurologic and orthopedic patients is unquestioned, but the mechanism of developing this care through specialty home health is not clearly outlined; and further, the matters of how other health care would be delivered to the patients is not clear. Economically, it is pretty clear that the business model would focus on taking higher margin patients and leaving less advantaged patients and that would be not only economically unsound for the community, but would also not contribute to the orderly development of medical care services. – Ms. Weaver seconded the motion. The motion CARRIED [8-0-0] **DENIED**.

AYE:	Atchley, Weaver, Handorf, Koella, Troy, Black, Coile, Caldwell
NAY:	None
RECUSED:	Lammert

St. Francis Hospital – Bartlett, Bartlett (Shelby County), TN -- CN0408-083

The initiation of cardiac catheterization services and the acquisition of cardiac catheterization laboratory equipment. The project will be located at St. Francis Hospital – Bartlett. No inpatient beds are affected.
\$ 1,665,576.00

William West, Esq., addressed the Agency on behalf of the project. Dr. Rehan Sajad, Internal Medicine & Pain Management; Susanne Griffith, Bartlett Area Chamber of Commerce; Kae

Werkhovan, Administrator, St. Peter Villa; Don Parsons, EMHC; Harold Byrd; David Wilson; and Dave Simeons spoke on behalf of the project.

Steve West, Senior Vice President, Methodist Healthcare and Dr. H. Frank Martin, Jr., Midsouth Hearth Institute, spoke in opposition to the project. Jane Lucchesi, Methodist Healthcare and William Kenley, Methodist Healthcare, were present in opposition.

Mr. William West rebutted.

Mr. Steve West, Methodist Healthcare and Mr. Frank Martin, Mid South Heart Institute, provided summation for the Opposition.

Mr. David Wilson provided summation for the Applicant.

Mr. Koella moved for denial of the project based on the lack of critical mass of patients available in a hospital operating 40 beds for a cardiac cath lab. There is concern about the quality of care that volume would provide. Mr. Atchley seconded the motion. The motion CARRIED [6-1-0]
DENIED

AYE: Atchley, Koella, Lammert, Black, Coile, Caldwell
NAY: Weaver
RECUSED: Handorf, Troy

Regional Hospital of Jackson (Jackson, Madison County) -- CN0407-065

The initiation of psychiatric services by the conversion and redistribution of ten (10) acute care hospital beds to ten (10) adult geropsychiatric beds. \$ 290,500.00

William West, Esq., addressed the agency on behalf of the project. Kevin Lee, President, Senior Health Incorporated; and Georgia Sumiel, Assistant CEO, Regional Hospital of Jackson, spoke in support of the project.

Ms. Troy moved for approval of the project based on: 1) Need – It is a very needed service. The fact it is attached to a hospital is positive because the patients do have co-morbidities and often need internal medicine and family practice support; 2) Economic Feasibility – The project is financially and economically feasible; and 3) Orderly development – The project does contribute to the orderly development of adequate and effective health care. Ms. Coile seconded the motion. The motion CARRIED [9-0-0] **APPROVED**.

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Black, Coile, Caldwell
NAY: None

Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger East, (Chattanooga, Hamilton County) -- CN0407-067

The addition of six (6) beds to establish a level II A nursery. Six (6) acute hospital beds will be transferred from Erlanger Medical Center to Erlanger East. The location of the project will be 1751 Gunbarrel Road, Chattanooga, TN 37421. Upon completion of the project six (6) acute care hospital beds will be delicensed from Erlanger Medical Center. \$ 211,730.00

William West, Esq., addressed the agency on behalf of the project. Martin McKay spoke in support of the project.

Mr. Koella moved for approval of the project to establish a level II A nursery based on: 1) Need – The need is there for the growth in East Chattanooga; 2) Economic Feasibility – The project is economically feasible as the cash reserves are there; and 3) Orderly development – The project does contribute to the orderly development of adequate and effective health care. They are

licensed and are a major TennCare provider. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0] **APPROVED.**

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Black, Coile, Caldwell
NAY: None

Galen Medical Group, PC (Chattanooga, Hamilton County) -- **CN0407-071**

The initiation of magnetic resonance imaging (MRI) services, and the acquisition of a MRI scanner. No licensed beds are affected and no licensure is required as a result of this project. The imaging services will be located at one of the Galen practice sites at 1651 Gunbarrel Road, Chattanooga (Hamilton County), Tennessee 37421-3126. Galen also plans to provide certain other imaging modalities, including computed tomography (CT), bone densitometry, ultrasound, echo cardiography, mammography, X-ray and nuclear cardiography for its practice at this location. \$ 8,373,957.11.

Kim Looney, Esq., addressed the agency on behalf of the project. Dr. Keith Helton spoke on behalf of the project.

Mr. Koella moved for approval of the project **limited to the physicians and patients of Galen Medical Group**, based on: 1) Need – The need is there for a 75 physician practice; 2) Economic Feasibility – The project is economically feasible through operating revenue; and 3) Orderly development – The project does contribute to the orderly development of adequate and effective health care through the license. Ms. Black seconded the motion. The motion CARRIED [9-0-0] **APPROVED.**

LIMITED TO THE PHYSICIANS AND PATIENTS OF GALEN MEDICAL GROUP

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Black, Coile, Caldwell
NAY: None

Hospice of Cumberland County, Inc. (Crossville, Cumberland County) -- **CN0409-085**

The construction of a six (6)-bed residential hospice on Kate's Korner near the intersection of Genesis Road and Wayne Avenue in Crossville. No new health service initiatives or major medical equipment are involved. Hospice of Cumberland County currently provides hospice care to residents of Cumberland County in their homes and in county nursing homes. \$ 558,000.00

Patrick Cash, Hospice of Cumberland County, addressed the agency on behalf of the project. Don Alexander, Housing Authority, spoke in support of the project.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established by trends that have already been established in the community, and there is no question that it is good for patients at the end of life to have this sort of care available. It is also good for area hospitals to not have so much burden; 2) Economic Feasibility – The economic factors appear to be in order; and 3) Orderly development – The provider contracts with TennCare. It contributes to orderly growth and development. As the elderly population is growing, there will be more need for these services. Ms. Weaver seconded the motion. The motion CARRIED [9-0-0] **APPROVED.**

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Black, Coile, Caldwell
NAY: None

Beverly Health Care Brandywood (Gallatin, Sumner County) -- **CN0409-086**

The addition of twenty-four (24) nursing home beds dually certified for Medicare/Medicaid. The beds will be housed in a newly constructed 24-bed Alzheimer's Unit. The additional beds will increase the licensed bed capacity of the facility from one hundred (100) dually certified beds to one hundred twenty-four (124) dually certified beds. \$ 1,333,625.00

Jeff Ockerman, Esq., addressed the agency on behalf of the project. Robin Green, Executive Director, Beverly Healthcare Brandywood, spoke on behalf of the project.

Mr. Koella moved for approval of the project based on: 1) Need – The need is there. The Department of Health agrees and their waiting list confirms that; 2) Economic Feasibility – The project is economically feasible through the equity transfer; and 3) Orderly development – It is orderly. The license and TennCare are appropriate. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0] **APPROVED**.

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Coile, Caldwell
NAY: None
RECUSED: Black

Baptist Memorial Hospital – Memphis Skilled Nursing Facility (Memphis, Shelby County) – CN0409-087

The addition of five (5) Medicare skilled nursing home beds to the current licensed thirty (30) beds for a total licensed bed complement of thirty-five (35) beds. \$ 68,300.00

Dan Elrod, Esq., addressed the agency on behalf of the project. Gordon Lintz, Administrator, BMH, and Arthur Maples, Strategic Analysis, BMHCC, were present in support.

Mr. Lammert moved for approval of the project based on: 1) Need – The need has been met. The hospital has maintained high occupancy rates during the previous year. There is obviously a need in this area; 2) Economic Feasibility – The project is economically feasible because although it indicates a loss both years, it will reduce the loss to the hospital; and 3) Orderly development – The project does contribute to the orderly development of health care. It will allow hospitals to move patients into the most appropriate setting. Ms. Coile seconded the motion. The motion CARRIED [7-0-0] **APPROVED**.

AYE: Atchley, Weaver, Koella, Lammert, Black, Coile, Caldwell
NAY: None
RECUSED: Handorf, Troy

Specialty MRI Center (Nashville, Davidson County) -- CN0409-088

The establishment of an outpatient diagnostic center (ODC), acquisition of magnetic resonance imaging (MRI) equipment and the initiation of MRI services specializing in breast MRI services.
\$ 2,791,870.50

William West, Esq., addressed the agency on behalf of the project. Dr. John Huff spoke in support of the project. Jacqueline Richards, a consumer, also spoke in support of the project.

Ronald W. Hill, Vanderbilt University Medical Center, and Dr. Cheryl Herman, Vanderbilt Breast Imaging Center, spoke in opposition to the project. Also speaking in opposition was Dan Elrod, Esq., representing St. Thomas Health Services and Baptist Hospital.

Mr. West rebutted.

Mr. Hill provided summation on behalf of Vanderbilt University Medical Center. Mr. Elrod provided summation on behalf of St. Thomas Health Services and Baptist Hospital.

Mr. West provided summation for the Applicant.

Ms. Coile moved for approval of the project based on: 1) Need – They have demonstrated that there is a need that is currently being unmet in the community to serve these patients. They have also stated it will not be a routine imaging but will fit a very special unique need for a certain group of women and men; 2) Economic Feasibility – The project is economically feasible with a

commercial loan in place and will be able to finance the project; and 3) Orderly development – It will contribute to the orderly development of health care in that radiologists have already received specialized training and will be highly qualified to read these MRI's, and it will allow patients in the middle Tennessee area to stay within their home area to receive care. Mr. Atchley seconded the motion. The motion CARRIED [8-1-0] **APPROVED**.

AYE: Atchley, Weaver, Koella, Lammert, Troy, Black, Coile, Caldwell
NAY: Handorf

United Regional Medical Center (Manchester, Coffee County) -- **CN0409-089**

The acquisition of a combination PET/CT (positron emission tomography/computed tomography) scanner and the initiation of PET services. \$ 3,108,982.00

Simultaneous review application filed by Harton Regional Medical Center, CN0409-090.

Harton Regional Medical Center (Tullahoma, Coffee County) -- **CN0409-090**

The acquisition, via lease, of a mobile PET (positron emission tomography) scanner and the initiation of mobile PET services on a one (1) day per week basis. The project location is at Harton Regional Medical Center, 1801 North Jackson Street, Tullahoma, Tennessee 37388. No inpatient beds are affected. \$ 702,480.00

Filed as a simultaneous review with United Regional Medical Center, CN0409-089.

Robert George, CFO, United Regional Medical Center, addressed the agency on behalf of United Regional Medical Center. Robert Drake was present in support of the project.

William West, Esq., on behalf of Harton Regional Medical Center, spoke in opposition.

Mr. George rebutted.

William West, Esq., addressed the agency on behalf of Harton Regional Medical Center. Garen Throneberry, COO, Harton Regional Medical Center, and Dr. Raymond Capps, Tullahoma Neuro Clinic, spoke in support of the project.

Robert George, CFO, United Regional Medical Center, spoke in opposition to the project.

Mr. West waived rebuttal.

Mr. George provided opposition summation for United Regional Medical Center.

Mr. West provided opposition summation for Harton Regional Medical Center.

Mr. George provided summation on behalf of Applicant, United Regional Medical Center.

Mr. West provided summation on behalf of Applicant, Harton Regional Medical Center.

Ms. Troy moved for approval of United Regional Medical Center project based on: 1) Economic Feasibility – The project is financially feasible and 2) Orderly development – The project does contribute to the orderly development of health care. Ms. Coile seconded the motion. The motion CARRIED [8-1-0] **APPROVED**.

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Black, Coile
NAY: Caldwell

Ms. Coile moved for approval of Harton Regional Medical Center project based on: 1) Need - The need has been shown through their patient base and within their application for the service

area; 2) Economic Feasibility – They have cash reserves to finance the project so it is economically feasible; 3) Orderly development - It will contribute to the orderly development because it is just a one day a week addition of services and will correspond and overlay with their current CT capabilities. Mr. Koella seconded the motion. The motion CARRIED [9-0-0] **APPROVED**

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Black, Coile, Caldwell
NAY: None

GENERAL COUNSEL'S REPORT

St. Barnabas Nursing Home (Chattanooga , Hamilton County) - CN0308-069A

Request to modify the certificate of need to increase costs from \$5,506,669.00 to \$6,842,749.00; and to extend the expiration date from February 1, 2006, until August 1, 2006. The original CON was issued January 28, 2004

Dan Elrod, Esq., addressed the agency in support of the request.

Mr. Koella moved for approval of the modification to increase cost and to extend the expiration date from February 1, 2006 to December 30, 2006. Dr. Handorf seconded the motion. The motion CARRIED by unanimous voice vote. [9-0-0] **APPROVED**.

National HealthCare Corporation – Farragut (Farragut, Knox Co) - CN0308-062A

Request to modify costs from \$3,804,600.00 to \$5,329,500.00; and to extend the expiration date from February 1, 2006 to August 1, 2006. The original CON was issued January 28, 2004.

Dan Elrod, Esq., addressed the agency in support of the request.

Ms. Weaver moved for approval of the request to modify the certificate of need for National HealthCare Corporation-Farragut to extend the project from February 1, 2006, to August 1, 2006 with the proviso that they submit to the agency semi-annual progress reports on the status and costs of the project. Mr. Atchley seconded the motion. The motion CARRIED by unanimous voice vote. [9-0-0] **APPROVED**.

Legislative Update:

Mr. Brogden noted the agency will be going through the legislative renewal process this session. He will provide the members with continuing updates on any legislation affecting the agency.

Mr. Brogden provided the members with copies of the written comments received regarding the proposed Agency Rules and transcript of the Rulemaking Hearing and asked that the members review these and bring them back to the January meeting for finalization.

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

Dr. Handorf moved for approval of the minutes of the November 17, 2004 meeting as written. Mr. Atchley seconded the motion. The minutes were accepted by unanimous voice vote [9-0-0]
APPROVED

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MHH:sk